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EXAMINER
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1                  RECORD OF ORAL HEARING

2        UNITED STATES PATENT AND TRADEMARK OFFICE

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4          BEFORE THE BOARD OF PATENT APPEALS

5                    AND INTERFERENCES

6                      _____

7              EX PARTE HIROSHI CHISHIMA
8                      _____

9                    Appeal 2009-005386
10                   Application 10/717,867
11                   Technology Center 2100
12                     _____

13           Oral Hearing Held:  December 9, 2009

14                     _____

15   Before JOSEPH L. DIXON, HOWARD B. BLANKENSHIP, and THU A.
16   DANG, Administrative Patent Judges.
17

18

19   APPEARANCES:

20   ON BEHALF OF THE APPELLANT:

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1   The above-entitled matter came on for oral hearing on Wednesday,

2   December 9, 2009, at The U.S. Patent and Trademark Office, 600 Dulany

3   Street, Alexandria, Virginia, before Deborah Rinaldo, Notary Public.

4

5   JUDGE DIXON: You have 20 minutes. Whenever you are ready, you

6   may begin.

7   MS. VIEYRA: Thank you so much. This morning I wanted to discuss

8   the issue I believe is that our feeling is that the prior art cited by the Examiner,

9   Shigemi, does not teach or fairly suggest the invention as recited in our

10 independent claims.

11   There are two specific things. One is that in particular the prior art does

12 not have an application program, as we recite in our claims; and it also does

13 not have a document parser for converting document data into structured

14 document information.

15   In addition, we feel that there is no suggestion or motivation for one

16 skilled in the art to be using the Shigemi reference in any way to come up with

17 our invention.

18   In a little more detail, our invention is a function extension type

19 browser, and what we mean by that is it has -- one of its features is an

20 application program that's downloaded when an information service has a

21 requirement of an extension of a markup language or information used.

22   And for example, what we're talking about is, for example, here at the

23 Patent Office in the PAIR system, in order to use the PAIR system, your

24 browser has to have cookies enabled.

1   If you had a browser, for example, on your Blackberry that did not have

2   a cookies feature, this application, our function extension type browser

3   provides that. So it's an -- it extends your browser so that you can access and

4   use specific information services, Web sites that require certain features that

5   your browser may not have.

6   That's -- as a byproduct or as a piece of that, in addition, our browser has

7   the functionality to help minimize or prevent what we in the computer

8   business used to call the blue screen of death. In other words, it deals with

9   certain issues up front to try to avoid a meltdown or a crash or your browser

10   coming to a halt.

11   And one of the ways that it does that is through this converting the data

12   into structure so that, for example, it will convert an instruction that is not

13   supported into a command so that when you are processing the instruction, it

14   says -- not a command. A comment. So you are processing and it says, Oh

15   look, a comment, I can skip it. So it prescreens in that fashion.

16   The prior art, the Shigemi reference cited by the Examiner, is a business

17   system. Its purpose is to provide business support. It deals with structured

18   data management and its goal and one of the main features of his system is that

19   the data is already structured. He is not doing any kind of converting data into

20   some kind of structure.

21   For example, as I just said, we convert document data and perhaps we

22   would comment out a feature that you don't want to have. He doesn't do that at

23   all. He's concerned with interrelating business data, interrelationships of

24   business data.

3

1   You can see that in his Figures 1 and 2 where he's just got stuff

2 everywhere, where he is showing how his invention relates to data.

3   In particular, he does not have an application program like we have

4 that's downloaded to enhance the browser. I mean, he doesn't even truly have

5 a browser that he's manipulating. So although figure 4 of Shigemi shows a

6 browser, it's not a browser that in any way being enhanced by anything that

7 Shigemi is doing.

8   In addition, Shigemi, as the Examiner admits, does not do parsing in the

9 sense that we're reciting a document parser unit converting document data into

10 structure, document information in response to an instruction from the

11 application program.

12   Shigemi parses. If you look it up in a computer type dictionary, parsing

13 is just looking at pieces of information and pulling out certain items that are --

14 although parsing actually means just looking at pieces of data and breaking it

15 into pieces. That's actually a regular English word that's also used in

16 computing.

17   Converting in a computing dictionary would say that you are changing

18 the format of your data. He's not changing any formats of his data. He's just --

19   JUDGE DIXON: Shigemi is not?

20   MS. VIEYRA: No. He is just parsing.

21   JUDGE DIXON: So they don't change from one tagged information to

22 another tagged format of information?

23   MS. VIEYRA: No. He just pulls it out and creates a subset. So he

24 starts with a structured document and then he makes it into a DTD, which is a

1 data definition, but all he's actually done is found a definition and put it into

2 this other place. He's not actually changing.

3   We are like the most simple form. We, like, take an instruction and

4 make it a comment so that, as I said, it will prevent the browser from crashing

5 at a later time.

6   But he's not doing that. He's not concerned with that. That's not an

7 issue for him. He's much more concerned with the opposite thing which is

8 interrelating all the datas together. So he's not so concerned with overall

9 functionality of something like a browser. He's concerned with data

10 relationships and business relationships where you are sharing all your data

11 together.

12   And I guess our final point would be that one skilled in the art would not

13 be putting these two things together, basically, because we're talking about

14 enhancing your browser, which is enhancing an application software type

15 thing and he's talking about a business system where you've got a bunch of

16 business data and your underlying data is trying to connect with each other to

17 get your business to run more smoothly.

18   They are not things that one skilled in the art would even be looking at

19 to get to the same place, even if it were. But I really don't feel that he's even

20 showing you the same thing.

21   So that, for example, the Examiner is saying in figure 4, the Shigemi

22 figure 4 shows a browser. The client processes a WWW browser but he

23 doesn't talk about how to enhance the browser. That's just not an issue that

24 he's concerned with. He's not addressing it and what he has wouldn't be able

25 to do that the way that ours is doing that.

1   JUDGE DANG: I understand you are commenting a lot on browser, but

2   I guess I don't see that language in the claim except for your preamble. So let's

3   just focus on the claim language.

4   Can you explain to me from this claim language why Shigemi does not

5   have an application program? Your first point, you said there's no application

6   program. You have an application that's downloaded and you are saying

7   Shigemi doesn't have anything that's downloaded?

8   MS. VIEYRA: He doesn't have an application program. The closest he

9   comes is a script.

10   JUDGE DANG: So why is the script not an application program?

11   MS. VIEYRA: A script is just a summary of -- I think to one skilled in

12   the art, if you are going to someone at a sophisticated level of computing, it's

13   not the same because similarly to the converting versus the parsing it's just a

14   series of instructions. It's a series of high level instructions. If one were

15   discussing an application program, one would be thinking more of something

16   that --

17   JUDGE DIXON: So you would distinguish, say, an application from an

18   applet because one is big and one is small?

19   MS. VIEYRA: More of the type of features that one has.

20   JUDGE DIXON: When we get into features, applications do all

21   different stuff. Size and scale, firmware versus -- I mean, firmware would be

22   their applications, they're smaller scale.

23   MS. VIEYRA: But I would distinguish that from a script. I mean, a

24   script is a fixed little set --

25   JUDGE DIXON: So is firmware their little program segment --

1   MS. VIEYRA: I don't mean size. The instructions in a script are

2 limited in the scope and functionality. In other words, to be a script --

3   JUDGE DIXON: So are the applications, generally depending on what

4 they are doing.

5   MS. VIEYRA: No, I would think an application would refer to pretty

6 much anything.

7   JUDGE DIXON: It could. But it could be limited too. You can

8 throw the

9   word "patch" around too. Those are applications that fix things but

10 some of them are small, some of them are big.

11   MS. VIEYRA: I'm not talking about the size. I'm talking about the

12 types of instructions that you would find in a script and the way that a script is

13 processed. For example, a script would not be compiled. An application

14 program often is compiled.

15   JUDGE DIXON: But not always. In an applet it all depends on what

16 platform they run on.

17   MS. VIEYRA: I just feel --

18   JUDGE DIXON: I understand your point.

19   MS. VIEYRA: I understand your point, but I feel like we're kind of

20 going off -- I mean, we don't say an application program period. We say an

21 application program that's downloaded at a certain point in time.

22   I mean, it's not -- it isn't the same thing. He's not -- we get to have the

23 whole recitation of the claim. We're saying the program downloaded when

24 and information service requiring an extension as used.

1   He has scripts that run. They just run. When you parse down the tree

2 and you find a script, then you run it. It's not the same as having a condition to

3 have -- that has the script run. It's: I found it, I'm running it.

4   So if you take the totality of that, I would think that we can distinguish

5 and I feel even stronger about the converting the data, that we can really

6 distinguish on that. But I feel like we distinguished on both of those.

7   JUDGE DANG: Let's go down to the converting data. You are saying

8 that Shigemi does not convert at all, they just have one form.

9   MS. VIEYRA: I'm saying, A, he doesn't have document data. He

10 already has structured data.

11   JUDGE DANG: What is document data versus structured data?

12   MS. VIEYRA: Well, structured document information is what he has,

13 the special formats, SGML, XML.

14   JUDGE DANG: But that's not document data? I mean, that's data.

15   MS. VIEYRA: Well, we're saying that we're converting it into that.

16   JUDGE DANG: How about if you convert structured data into another

17 form of structured data? Isn't that still converting into structured data?

18   MS. VIEYRA: Say it again. I'm sorry.

19   JUDGE DANG: Suppose you are converting one level of structured

20 data to a second level of structured data. That's still converting into structured

21 data.

22   MS. VIEYRA: Yes. He doesn't do that. But, yes, I would think.

23   JUDGE DANG: What does he do with his XML and all that?

24   MS. VIEYRA: He creates --

1   JUDGE BLANKENSHIP: I thought you said the reference was taking a
2   document and making a smaller document?
3   MS. VIEYRA: He's parsing. He's pulling out information. I mean, if
4   you look up converting, it says, Changing something about the format. He's
5   just the equivalent of taking every third word. He's taking every command
6   out. That's what he's doing with his parsing. That's what a DTD is.
7   A, it has to be in the document. He's taking something from -- that's part
8   of why he would be converting structured data to structured data, because he's
9   taking data in the format -- he's not adding anything at all. So that's, I guess, in
10   a very broad sense the difference between converting.
11   For example, we add in front of a command that we don't think will be
12   recognized, we add the word "comment" so that we've changed the command
13   from being a command to being executable, sort of, but it won't blow up.
14   It's like, for example, if for some weird reason you couldn't have a read
15   command, we would say, okay, we're going along, we're going through our
16   document data and, oh boy, every time we see a read command, we're going to
17   put the word "comment" in front of it so that when we go to execute it, it will
18   never read. It will say, Oh, a comment, I'm skipping this line.
19   But it also won't crash because, you know, that's not a problem. That
20   wouldn't happen with his. He's just pulling out, okay, here is the read
21   command, here is the write command, here is a merge command. That's what
22   parsing is. There's no thought of the sense of -- I mean, converting implies
23   there's a format change and parsing implies there's not, that you are just
24   picking up things.

1   And parsing is very similar to what you would do in your seventh grade

2   English class when you are learning grammar, parse the sentence, this is the

3   subject, this is the verb, this is the object. That's what parsing is. And it's still

4   considered that in data processing.

5   JUDGE BLANKENSHIP: So parsing and converting are two different

6   things?

7   MS. VIEYRA: Yes.

8   JUDGE BLANKENSHIP: Is it parsing or converting?

9   JUDGE DANG: It's called a parsing unit. Why isn't it a converting

10   unit?

11   MS. VIEYRA: I would have to say because it's a translated document

12   that's not in its original language but I don't really know.

13   JUDGE DANG: So before we were having it called a converting unit

14   and therefore parser and converting probably the same thing when you

15   translated it?

16   MS. VIEYRA: You know, I do not know. I have no idea why they call

17   it a parser unit for converting document data.

18   JUDGE DANG: I have no questions.

19   JUDGE DIXON: Anything further? Thank you very much.

20   MS. VIEYRA: Thanks for your time.

21   (Whereupon, the proceedings were concluded on Wednesday,

22   December 9, 2009.)